

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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WESTPORT INSURANCE CORPORATION,

Plaintiff,

v.

THE HAMILTON WHARTON GROUP, INC.,
WALTER B. TAYLOR, individually,

and

INTER-COMMUNITY MEMORIAL
HOSPITAL OF NEWFANE, INC., et al.,

Defendants.
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THE HAMILTON WHARTON GROUP, INC. and
WALTER B. TAYLOR, individually,

Third-Party Plaintiffs,

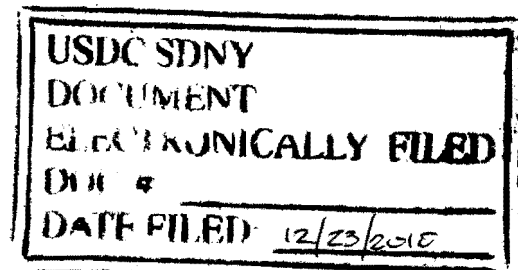
v.

IAAC, Inc., and INDEPENDENT INSURANCE
AGENTS & BROKERS OF NEW YORK, INC.

Third-Party Defendants.
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Case No. 10 CV 2188 (RMB) (THK)

**PROPOSED MODIFIED CASE
MANAGEMENT PLAN**



The following Modified Case Management Plan is entered, in accordance with Rule 16(b)(4) of the Federal Rules of Civil Procedure, after consultation with the parties at the discovery status conference held before Magistrate Judge Theodore H. Katz held on December 6, 2010, and the dates set forth herein shall supersede those in the original Case Management Plan so ordered on May 6, 2010.

1. Amended Complaint to be filed no later than December 30, 2010.
2. Responsive pleadings to the Amended Complaint filed no later than February 1, 2011.

3. All discovery, including discovery relating to expert witnesses, shall be completed (not propounded) by August 31, 2011.
4. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties meet the fact discovery completion date in ¶ 3 above:
 - a. Party Fact Discovery.
 - i. Deadline for serving initial disclosures February 15, 2011.
 - ii. Initial requests for production of documents and interrogatories to be served by February 15, 2011.
 - iii. Depositions to be completed by April 15, 2011.
 - a. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
 - b. There is no priority in deposition by reason of a party's status as plaintiff or defendant.
 - iv. Requests to Admit to be served no later than April 28, 2011.
 - b. Third Party Fact Discovery.
 - i. Deadline for the Third-Party Defendants to serve initial disclosures and to respond and object to Defendants Hamilton Wharton Group, Inc. and Walter B. Taylor's presently outstanding requests for production of documents: February 15, 2011.
 - ii. Initial requests for production of documents and interrogatories to be served by March 15, 2011.
 - iii. Depositions to be completed by July 15, 2011.
 - iv. Requests to Admit to be served no later than July 29, 2011.
 - c. Discovery Relating to Expert Witnesses. An expert witness is anyone who may be used at trial to present evidence under Rules 702, 703 or 705 of the Federal Rules of Evidence. Unless otherwise ordered, a party intending to call such a witness must disclose a report signed by the witness containing the information required to be disclosed by Fed. R. Civ. P. 26(a)(2)(B). All such expert reports will be disclosed by plaintiff and defendants by July 1, 2011. Rebuttal reports shall be provided by August 1, 2011, and depositions of experts shall be completed by not later than August 31, 2011.

5. The Court will schedule a post-discovery status conference within three weeks of the close of all discovery. See ¶ 9.
6. All counsel must meet for at least one hour, with principals, to discuss settlement not later than two weeks following the close of fact discovery. Accordingly, Counsel for the parties have discussed holding a settlement conference before a Magistrate Judge or the Southern District's Mediation Program and request:
 - a. X Referral to a Magistrate Judge for settlement discussions
 - b. Referral to the Southern District's Mediation Program
7. The parties shall submit a Joint Pretrial order prepared in accordance with the undersigned's Individual Practice Rule 3 and Rule 26(a)(3).

TO BE COMPLETED BY THE COURT:

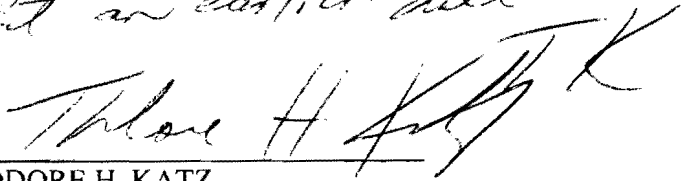
8. [Other directions to the parties:]

9. The post-discovery status conference is scheduled for _____ at _____.

SO ORDERED.

DATED: New York, New York
December 23, 2010

The dates for third-party and expert discovery will be moved up if the motion to dismiss is decided at an earlier date.


THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE